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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/559,769	04/27/2000	Furio Orologio	0109065/015	2626

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EXAMINER

LONEY, DONALD J

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 08/05/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/559769

Applicant(s)

Orologio

Examiner

D. Loney

Group Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on May 1 and June 5, 2002
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-12 is/are pending in the application.
- ☐ Of the above claim(s) 6-12 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-5 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 5
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Newly submitted claims 6-12 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the product as claimed can be used in a materially different method such as a packaging product for boxed products that cushions the contents there in

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 6-12 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 are rejected under 35 U.S.C. 102(a) as being anticipated by Polair Packaging, Invoice 516950, dated December 16, 1999 cited by the applicant.

It appears from the Invoice that a bubble/fill/bubble laminate wherein the foil is the intermediate layer is disclosed. Any further information from the applicant may aid in overcoming this rejection.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. The Invoice Gummed Papers Limited, 5722 dated November 8, 1996 appears to also

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show a sale of a bubble/foil/bubble packaging material . Any further information as to this product may aid in overcoming this rejection.

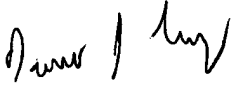
Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Brockhans. Brockhans teaches a bubble/foil/bubble laminate with a foil layer being intermediate the outer bubble layers. Refer to Fig. No. 2c along with column 2, lines 56-61..

Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication should be directed to Ex. D. Loney at telephone number 703 308-2416.

Examiner Loney/ng

August 2, 2002


DONALD J. LONEY
PRIMARY EXAMINER